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6 Counsel for Defendant SIMCHO

7
8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,)	No. CR 06-542 MHP
)	
11 Plaintiff,)	STIPULATION AND PROPOSED
)	ORDER FOR CONTINUANCE OF
12 v.)	STATUS CONFERENCE
)	
13 DAVID SIMCHO,)	Date: January 7, 2008
)	Time: 10:00 a.m.
14 Defendant.)	Court: The Honorable Marilyn Hall
)	Patel

16
17 The parties hereby stipulate and agree as follows:

- 18 1. This matter is set for a status conference on January 7, 2008 at 10:00 a.m.;
- 19 2. Defense counsel now has reviewed the discovery in this matter, but needs more
20 time to consult with Mr. Simcho on a defense plan. As Mr. Simcho lives in
21 Dallas Texas and is indigent, it is more difficult than usual to schedule meetings
22 regarding the discovery. Defense counsel needs more time to meet with Mr.
23 Simcho so the next appearance in January is a meaningful one;
- 24 3. On October 17, 2007, defense counsel went to San Jose and met with IRS Agent
25 Tracy Wong to review ten boxes of discovery in this matter. Agent Wong copied
26 several hundred pages of discovery and has produced said discovery to defense

- 1 counsel. Counsel needs to review this discovery with Mr. Simcho as well;
- 2 4. There are 5000 pages of core documents that defense counsel has recently
- 3 completed review of in detail. Counsel needs to review this discovery in person
- 4 with Mr. Simcho prior to the next appearance, and plans to do so between January
- 5 7, 2008 and January 28, 2008;
- 6 5. Finally, Mr. Simcho cannot fly to California from Dallas to make a Court
- 7 appearance on January 7, 2008 at 10:00 a.m. He is available on January 28, 2008
- 8 at 10:00 a.m. and does plan to attend this Court date if the Court agrees to
- 9 continue the matter;
- 10 6. For the aforementioned reasons, the parties jointly agree and request the Court to
- 11 continue the status conference in this matter to January 28, 2008, at 10:00 a.m.;
- 12 7. The parties further agree that exclusion of time under the Speedy Trial Act is
- 13 appropriate to allow for effective preparation of defense counsel, taking into
- 14 account the exercise of due diligence. 18 U.S.C. § 3161(h)(8)(B)(iv). The parties
- 15 also agreed that the ends of justice served by this continuance outweighed the best
- 16 interests of the public and the defendant in a speedy trial. 18 U.S.C. §
- 17 3161(h)(8)(A);
- 18 8. In the event the Court declines to continue the Court date, Mr. Simcho
- 19 respectfully requests that his appearance be waived for the January 7, 2008
- 20 appearance.

21 Dated: December 28, 2007

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23 /S/
ELIZABETH M. FALK
24 ASSISTANT FEDERAL PUBLIC DEFENDER
Attorney for David Simcho

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1 Dated: December 28, 2007

2 _____/S/
3 CYNTHIA STIER
4 ASSISTANT UNITED STATES ATTORNEY

5 **~~PROPOSED~~ ORDER**

6 For the reasons set forth above, the status conference in the aforementioned matter is
7 hereby CONTINUED from January 7, 2008 to January 28, 2008 at 10:00 a.m. The Court also
8 finds that the ends of justice served by the requested continuance outweigh the best interests of
9 the public and the defendant in a speedy trial. The Court finds that time from January 8, 2008
10 through January 28, 2008 should be excluded from Speedy Trial Act calculations for effective
11 preparation of defense counsel. 18 U.S.C. § 3161(h)(8)(A). Failing to grant the requested
12 continuance would deny defense counsel reasonable time necessary for effective preparation,
13 taking into account the exercise of due diligence, and would result in a miscarriage of justice. 18
14 U.S.C. § 3161(h)(8)(B)(iv).

15 **IT IS SO ORDERED.**

16 DATED: 12/28/2007

